



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Mr. James R. Raup
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701

OR95-542

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31926.

The Austin Independent School District (the "district") received a request for copies of student statements regarding an altercation between a teacher and student. You ask whether sections 552.101, 552.108, or 552.114 of the Government Code require that the information be withheld from public disclosure.

Section 552.114(a) excepts information from disclosure "if it is information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 incorporates the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), into the Open Records Act, providing that the act

does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Gov't Code § 552.026; *see also* Open Records Decision No. 431 (1985). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) . . .) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1). "Education records" are records which:

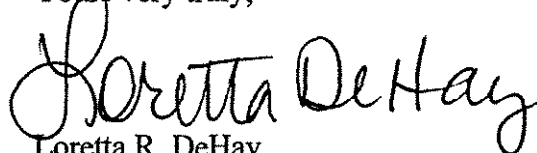
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A). Generally, sections 552.114(a) and 552.026 may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a particular student" or "one or both parents of such a student." Open Records Decision No. 332 (1982) at 3. Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

The documents at issue consist entirely of handwritten student statements. You must withhold the handwritten statements by students, because release of the statements would tend to identify the students. Open Records Decision No. 224 (1979).¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

¹Because the information is excepted from disclosure under section 552.114, we need not address your arguments concerning sections 552.101 or 552.108.

LRD/LMM/rho

Ref.: ID# 31926

Enclosures: Submitted documents

cc: Mr. Herbert H. Friar
(w/o enclosures)

Mr. Tim Bacon
Uniserv Director
Austin Association of Teachers
42 East Avenue
Austin, Texas 78701
(w/o enclosures)